

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

4 DEAUNNA PHILLIPS, Plaintiff, CIVIL ACTION FILE
by and through her Mother, NO: 1:19-CV-00401-MHC
SPARKLE STIDWELL,
5 as next friend,

6 Plaintiffs,

7 | vs.

8 | YASIN ABDULAHAD,

9 Defendant.

10 | VOLUME II

11 The continuation of the videoconference
12 deposition of EL MALIK ROBESON-EL; the reading and
13 signing of the deposition being waived; taken before
14 Cathy Cox, Certified Court Reporter, commencing at
15 10:02 a.m., on the 25th day of March 2021.

1 APPEARANCES OF COUNSEL:

2 FOR THE PLAINTIFF APPEARING VIA ZOOM:

3 G. BRIAN SPEARS, ESQUIRE
4 JEFFREY FILIPOVITS, ESQUIRE
5 Spears & Filipovits, LLC
6 1126 Ponce de Leon Ave., N.E.
7 Atlanta, Georgia 30306
8 404-872-7086
9 bspears@civil-rights.law

10
11 CHRIS STEWART, ESQUIRE
12 DIANNA J. LEE, ESQUIRE
13 Stewart Miller Simmons Trial Attorneys LLC
14 55 Ivan Allen Jr Blvd Suite 700
15 Atlanta, Georgia 30308
16 dlee@smtrial.com

17 FOR THE DEFENDANT APPEARING VIA ZOOM:

18 STACI J. MILLER, ESQUIRE
19 JOSHUA FOSTER, ESQUIRE
20 City of Atlanta Law Department
21 55 Trinity Avenue, Suite 5000
22 Atlanta, Georgia 30303-3520

23
24
25

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P R O C E E D I N G S

MR. SPEARS: I'd like to go on the record,
if we could. On the record.

Let the record reflect this is the resumption of the deposition of Officer Robeson-El. The deposition is being taken pursuant to a amended notice of deposition and the witness remains under subpoena and the witness remains under oath.

We will be proceeding with the same introductory sort of administrative comments that we made at the beginning of the deposition when we started about a week and a half ago.

Are there any other preliminaries before we get started, Staci?

MS. MILLER: No. We may be joined -- I should say no other than we may be joined by Joshua Foster. I know he has a hearing this morning, and I know he was going to try to join the hearing after that hearing.

MR. SPEARS: Okay, that's fine. All right,
I would like to proceed.

(Mr. El Malik Robeson-El was previously sworn.)

EL. MALK ROBESON-EL.

(Continuation) CROSS-EXAMINATION

2 | BY MR. SPEARS:

3 Q Are you ready to proceed, Officer Robeson?

4 A Yes.

5 Q All right. Let me start by asking, first of
6 all, where are you situated this morning? Where are
7 you now?

8 | A I'm in an office --

9 Q And when you say an office?

10 A I'm at the precinct.

11 Q I'm sorry?

12 A I'm in an office in the precinct.

13 Q Okay. And where is that precinct located?

14 A 1 Baltimore Place, Atlanta, Georgia 30308.

15 Q And in connecting with us for purposes of
16 this deposition, what is the means by which you're
17 connecting to us? Are you using your personal phone
18 again or what is that?

19 A I'm using my City issued cellphone.

20 Q All right. And who, if anyone, is present
21 in the room with you?

22 A No one.

23 Q Ordinarily, do you share that office space
24 with anyone else?

25 A No.

1 Q Is the office that you're in now one that
2 you regularly use?

3 A Yes.

4 Q And what are the kinds of things that you
5 use that office for?

6 A To obtain warrants.

7 Q Okay. So is it your unique desk that you're
8 currently at or is it one used by others to obtain
9 warrants?

10 A It's used by others to obtain warrants.

11 Q What documents do you have with you this
12 morning?

13 A None.

14 Q What documents do you have in your
15 possession that you brought with you to your current
16 location for purposes of participating in today's
17 deposition?

18 A Just my cellphone.

19 Q You told us earlier that after Officer
20 Abdulahad had exited the car in which he shot
21 Mr. Phillips, that you grabbed him? Do you recall
22 that?

23 A Yes.

24 Q How far were you from the car -- when I say
25 the car, I'm referring now to the Malibu. Do you

1 understand that?

2 A Yes.

3 Q Okay. How far were you from the Malibu when
4 you grabbed Abdulahad?

5 A I don't recall.

6 Q Give us an approximate.

7 A I don't know. I couldn't give you an
8 estimate. I don't know. I wasn't paying attention.

9 Q And why weren't you paying attention?

10 A Because my concern was Abdulahad at that
11 time. I wasn't paying attention to that detail.

12 Q Mr. Abdulahad had exited the vehicle when
13 you first saw him; correct?

14 A Yes.

15 Q And -- hold on just a moment. When you saw
16 him he was not injured; correct?

17 A I didn't know. I was checking to see was he
18 was injured because -- no, no, he wasn't. No, he
19 wasn't.

20 Q When you saw him did he appear to be
21 injured?

22 A No.

23 Q Okay. You knew at that point that he was
24 out of the vehicle in which he had been initially in
25 transit; correct?

1 A Yes.

2 Q All right. And according to you, you had
3 not heard anything of noise coming from the interior
4 of that car; correct?

5 A Correct.

6 Q And you had not seen any of the activity
7 that had taken place inside of the car after it left
8 your immediate presence as it pulled out of the
9 parking slot that it was situated in; correct?

10 A Correct.

11 Q So can you identify for us the specifics of
12 what you considered to be your concerns about
13 Abdulahad when you first saw him? You said you were
14 concerned for him. I want to know why.

15 A Yes. Because when he got out of the
16 vehicle, I asked him, I said: What happened? Are you
17 okay?

18 He said, Malik, I shot him. And he
19 started crying. He was real emotional. And I went up
20 and grabbed him and held him. And it was like, you
21 okay? You okay? I got this. You know, sit down.
22 Get yourself together.

23 He said he had a gun. I looked in the
24 car. I saw the gun on the floor, and I saw the kid
25 bleeding from the head. I stepped back, and I got on

1 the radio. But that was my concern. My concern was
2 him and making sure everything was okay.

3 Q So what you saw visibly of Officer
4 Abdulahad, there's wasn't anything that you saw in his
5 appearance other than an emotional reaction on his
6 part that --

7 A Correct.

8 Q -- caused you concern; correct?

9 A Correct.

10 Q Because when you first saw him, according to
11 your testimony, you had no knowledge whatsoever of any
12 gun having been fired?

13 A Correct.

14 Q Okay. So as far as you knew the car was
15 stopped, Abdulahad had a video when he got out of the
16 car. He was unhurt when he got out of the car. So
17 from a visual standpoint what you initially understood
18 was that he was safe when he got out of the car;
19 correct?

20 A Correct.

21 MS. MILLER: Objection. You can answer.

22 Q All right. When you -- again going back to
23 the phrase you used in your earlier testimony. You
24 said that you grabbed Abdulahad, I understand that.
25 That's after he gets out of the car. Are you with me?

1 A Yes.

2 Q Okay. When you grabbed him, what part of
3 your body touched his body?

4 A My chest touched his chest.

5 Q Okay. And was there any other part of your
6 body that touched Abdulahad's body in the course of
7 what you had earlier described as you having grabbed
8 him?

9 A My hands touched his back. I gave him -- I
10 hugged him.

11 Q Okay. All right. And you were -- sort of
12 were inches apart, if that; correct?

13 A Yes.

14 Q Okay. And when you hugged him your chest --
15 I take it from what you just told us, your chest came
16 in contact one with the other; correct?

17 A Yes.

18 Q All right. And when you came in contact
19 with him in that manner, how strong was the odor of
20 gunpowder?

21 A I can't recall.

22 Q Well, there was a noticeable gunpowder
23 smell, was there not?

24 A I can't recall.

25 Q You understand that when a gun is discharged

1 that it is ordinarily the case there's going to be the
2 smell of gunpowder that had been ejected from the gun
3 in the course of it being fired; correct?

4 A Yes.

5 Q All right. In your recollection -- in your
6 recollection -- and I realize you're now sitting here
7 and there's been a timespan, so we have to go over
8 that. But, I am asking what your current recollection
9 is now. From your standpoint as you sit here today,
10 you don't recall one way or another how strong the
11 gunpowder smell was; correct?

12 A Correct.

13 Q All right. And similarly, you don't recall
14 smelling any marijuana on Officer Abdulahad, do you?

15 A No, I don't.

16 Q And you don't recall smelling any -- any
17 scent of marijuana coming from the car when you looked
18 in, did you?

19 A I don't -- I don't recall. I don't remember
20 that.

21 Q Okay. In your earlier testimony you spoke
22 of your cellphone, physical cellphone that you had
23 that was subject to the search warrant. In that
24 regard, in my recollection of what told us, you said
25 something to the effect that they lost your cellphone;

1 is that something that you told us before?

2 A Yes. That's what I was told.

3 Q Okay. And now my question is focusing in on
4 your cellphone. First of all, the cellphone that was
5 lost was that one that was -- that was yours, it
6 wasn't a City issued phone; is that correct?

7 A Correct.

8 Q Okay. And the -- the person or -- who were
9 you talking to who said that your cellphone was lost?

10 A I called down to the D.A.'s office and they
11 transferred me to an investigative unit. They
12 didn't -- I don't know -- I don't remember who I spoke
13 with it has been so long ago. I don't know.

14 Q All right. And how long in time was it
15 between the initial seizure of your phone in
16 September -- I believe September of that year and
17 you're learning whatever these words were that were
18 said to you?

19 A They said they would only have my phone for
20 two days. I called two days later and they said, oh,
21 we're not done with it yet. So I called back a couple
22 of days after that and I asked them for my phone.
23 And -- and they said I don't -- I don't know, you
24 know, where your phone is. And I felt like they were
25 playing games so I went and bought me a new phone.

1 Q Okay. Well, then given the way that you
2 described it, I can't tell whether what you were told
3 was that your phone was no longer in the possession of
4 investigators with the district attorneys' office at
5 all or simply the person that you talked to couldn't
6 tell you where it was located. Do you know which of
7 those two is the case?

8 A The second one. He said they just didn't
9 know where it was located.

10 Q Okay. And correct me if I'm wrong. In
11 fact, the statement that you were told by someone in
12 the district attorneys' office was to the effect that
13 when you called they didn't know where your phone was?

14 A Correct.

15 Q Okay. Did anyone from the district
16 attorneys' office represent to you that your phone was
17 absolutely no longer anywhere to be found by their
18 office?

19 A They just told me they didn't know -- no.
20 They just told me they didn't know where it was.

21 Q Okay. Again, the they is the person --
22 whoever that was -- you were talking to?

23 A Say it again.

24 Q When you say the D.A. said to you about the
25 phone, you're again referring to a person who you

1 understood to be working with investigators in the
2 district attorneys' office?

3 A Yes.

4 Q But you don't know who that was; correct?

5 A No. No.

6 Q All right. If I may, let me ask you the who
7 just person came by that we could see briefly in your
8 screen, who was that?

9 A That was a coworker coming in to grab some
10 keys.

11 Q And what was their name, please?

12 A Office Crowder. SP Crowder.

13 Q He's not related by any chance to the
14 Crowder who used to work over in the Dekalb County
15 Sheriff's Office, is he?

16 A No. This is a female.

17 Q There was something else that you said about
18 your cellphone during the last deposition, and I
19 wanted to be sure what, you know, the story is in that
20 regard. My notes reflect that during our last
21 session, deposition, that you said something to the
22 effect that there was a point in time -- well, the
23 phrase you used was the last time they took it. And
24 my question is simply was there only one time that
25 your phone was seized by investigators with the

1 district attorneys' office or was there more than one
2 occasion?

3 A Just one occasion.

4 Q Okay. Now, as we sit here today, can you
5 tell us what your height is? Your physical height.

6 A 6-1.

7 Q And what is your current -- approximate
8 current weight?

9 A 260 pounds.

10 Q And in January of 2017, I take it your
11 height was still the same; right? You were 6-1 at
12 that time?

13 A Yes.

14 Q All right. And your weight was
15 approximately the same?

16 A Yes.

17 Q And can you give us just a little bit of --
18 a lot of officers do training of one kind or another,
19 whether it be weight-training or aerobics or things of
20 that type. Are there any currently any sports in
21 which you participate?

22 A The weight-training and -- and I jog.

23 Q Okay. And was that also the case in 2017?

24 A Yes.

25 Q Okay. Do you or specific more to the time

1 frame right around 2000 -- early 2017 --

2 A That was another officer that came in. He
3 was grabbing -- grabbed a book or something. I'm
4 going to lock the door. Or I can't lock it. I'm
5 sorry. There's no lock on it.

6 Q Well, I appreciate your cooperation.
7 Certainly -- I know you want to keep going.

8 In early 2017, were there any sports or
9 like a martial art type sport or training that you
10 participated in at that time?

11 A No.

12 Q After the Malibu drove away from your
13 immediate presence in the parking lot adjacent to the
14 Annex, as I recall your earlier testimony, you -- you
15 ran for a bit and then you saw that the Malibu
16 stopped. Do I have that right?

17 A Yes.

18 Q Okay. And when the Malibu stopped initially
19 you stopped to observe it; correct?

20 A Yes.

21 Q Okay. And then there's some -- some period
22 of time in which you're observing it and you haven't
23 yet -- you haven't yet seen -- seen Yasin exit the
24 car?

25 A Yes.

1 Q I believe you told us earlier that in that
2 time frame between the point that you stopped and were
3 observing the car and the point of which Officer
4 Abdulahad exited the car, your testimony, I believe
5 was to the effect that you did not observe any of the
6 activity that took place within the car; correct?

7 A Correct.

8 Q Okay. Can you give us some sense of the
9 time frame -- the elapsed time from when you observed
10 the car having come to a stop and Officer Abdulahad
11 exited the car?

12 A When the vehicle came to a complete stop, it
13 was like a couple of seconds later, he got out of the
14 vehicle.

15 Q And in that time frame, did you -- did you
16 hear -- the time frame that you just referred to, did
17 you hear any activity at all?

18 A No.

19 Q And of course by that focusing on the
20 vehicle, coming from the vehicle, you didn't hear or
21 see any activity taking place; is that right?

22 A Correct.

23 Q Am I correct in understanding then that
24 the -- that the -- once the vehicle stopped that the
25 interior of it from which you could see was not

1 illuminated?

2 A Correct.

3 Q Can you approximate how far you were from
4 the Malibu once it had stopped and you had stopped?

5 A I can't recall. I don't know.

6 Q You've described to us what your initial
7 statements were to Officer Abdulahad and what he told
8 you. As you sit here today, can you think of anything
9 else that he said to you or you said to him and that
10 initial point of contact with him?

11 A I just asked him what happened.

12 Q Right.

13 A What happened? Are you okay? Like, I
14 just -- I was like, you know, are you okay? Like,
15 what happened? Like.

16 Q No, I understand that. I'm just asking if
17 you remember anything else in addition to what you've
18 already told us?

19 A I was trying to think. That was it. I was
20 just, like, what happened. Like, what happened inside
21 the car. I don't -- that's it.

22 Q Okay. And as I understand it your testimony
23 is that all he told you was that I shot him.
24 Something to that effect.

25 A Yes.

1 Q And -- and after -- and I think you said
2 this morning something to the effect that after you
3 had initially embraced him you told him to sit down;
4 is that correct?

5 A Yes.

6 Q And did he do that?

7 A Yes.

8 Q Okay.

9 A For a brief second.

10 Q Okay. And in the time that he was sitting
11 down, describe to us, please, what physical actions
12 that he took, that you can recall.

13 A I told him to sit down and breathe. Just
14 breathe. And, you know, get yourself together. I got
15 it from here. And then he got up after that.

16 Q Okay.

17 A And --

18 Q Go ahead. What else did he do next?

19 A I was trying to take over the radio, trying
20 to give instructions on what was going on and give our
21 location. He intervened and he took over -- and
22 started taking over the radio traffic after that. And
23 I was like, I said I got it. Look, you stand over
24 there. And, you know, don't touch nothing. That's
25 all I said.

1 Q Okay. And when you said don't touch nothing
2 you're now referring to, I take it, the Malibu?

3 A Correct.

4 Q And the interior of the Malibu?

5 A Correct.

6 Q Okay. And when you said that, as I
7 understand it, you had not yet yourself looked to the
8 interior of the Malibu?

9 A Yes, I did -- I looked in. I just glanced
10 in. I didn't touch anything. I just looked to see
11 did I see a gun on him -- to see if I saw a gun or not
12 because he said he saw a gun. I looked to see if I
13 saw a gun. And then I looked -- then I looked at the
14 kid, and then I backed away and that was it.

15 Q Okay. And what Officer Abdulahad had told
16 you about seeing a gun, he did not tell you at what
17 point in time he saw it, did he?

18 A No.

19 Q So, and again, I'm not sure if I was clear
20 in the way that I asked my question before. But the
21 sequence then -- please correct me if I'm wrong -- the
22 sequence was once you had contact with Abdulahad and
23 embraced one another, he sat down briefly. There was
24 some talk about the radio and you told him don't touch
25 anything, something to that effect. Was it after that

1 conversation about the radio that you had with
2 Abdulahad that you made first observation of the
3 interior of the Malibu?

4 A Repeat that question.

5 Q Just trying to get a sense of sequence, sir.
6 You've told us a couple of things. One is, ended with
7 you describing that you had a conversation with
8 Abdulahad, something about you were going to call it
9 in and then he got the radio or something to that
10 effect; right?

11 A Yes.

12 Q And my question is just one of sequence. In
13 the sequence of the events that happened that evening
14 was your observation of the interior of the Malibu
15 before or after you had the conversation with Officer
16 Abdulahad about the radio?

17 A It was before.

18 Q Was there ever a point in time in which you
19 observed Officer Abdulahad return to the Malibu after
20 he was seated on the ground?

21 A No.

22 Q Was there ever a time that you returned to
23 the presence of the Malibu after you looked in as
24 you've just described it?

25 A No.

1 Q Can you recall anything else about your
2 observations of the interior of the Malibu beyond that
3 which you've already told us?

4 A No.

5 Q When you looked in and saw Mr. Phillips, the
6 engine of the car was still engaged; correct?

7 A I can't recall.

8 Q Do you have any recollection of anyone
9 either the two of you or any other officer who after
10 the shooting started the engine?

11 A No.

12 Q So it is the case then if -- to the extent
13 that there's evidence that the vehicle's engine
14 remaining running continuous from the time that
15 Mr. Phillips was shot until the scene was processed,
16 you wouldn't have any information contrary to that,
17 would you?

18 A No.

19 Q And when you looked in you saw Mr. Phillips
20 you saw -- I forget how you described it. You saw him
21 seated in the driver's seat and waiting, something to
22 that effect?

23 A Yes.

24 Q You didn't see any movement on his part, did
25 you?

1 A No.

2 Q Did he make any sound that you heard?

3 A No.

4 Q The -- can you tell me what your next
5 physical action was after you looked in to the
6 interior of the Malibu?

7 A I stood back and I -- I stood -- I stood
8 beside Abdulahad, and then I pulled out my cellphone
9 and called -- and called my union rep.

10 Q And who was that?

11 A I forgot her name. I forgot her name. It's
12 been so long ago. We changed so many and I don't
13 remember her name.

14 Q Okay. Identify the union, please?

15 A IBPO.

16 Q And just in your own words, describe what
17 that organization is.

18 A It's -- it's a unit that's set outside of
19 the City of Atlanta to provide -- we -- they take
20 money from our check to support us. The money goes
21 towards representatives that help represent us with
22 internal affairs and provide us with lawyers in case
23 of instances like this.

24 Q Okay. And on how many occasions had you
25 contacted your union rep in connection with your work

1 as a City of Atlanta police officer?

2 MS. MILLER: Objection, but you can answer.

3 A Well, like if I had -- if I had -- any
4 time -- any time -- I can't tell you how many times.
5 But any time I have to speak to administration I would
6 call a union rep.

7 Q I take it that was a number you had in your
8 phone?

9 A Yes.

10 Q And what did you say to the union rep?

11 A I just told her that my partner and I were
12 involved in a shooting, and I would need her to
13 respond to this location. I gave her the location.
14 She said okay. Don't talk to anyone, I'll be there.

15 Q And did someone come?

16 A Excuse me?

17 Q In response to your call and the
18 conversation you had with a union representative, did
19 someone indeed respond to where you were?

20 A Yes.

21 Q All right. And approximately how long did
22 that take?

23 A I can't recall. Probably like an hour or
24 so.

25 Q And in that period of time of that hour that

1 elapsed between your contact with the union rep and
2 their arrival, did you speak with any representatives
3 of the GBI about what had happened?

4 A I didn't speak to anyone until my union rep
5 arrived.

6 Q And in what you observed of the scene, did
7 you see Officer Abdulahad speak with any persons about
8 what had happened in the period of time -- excuse
9 me -- in the period of time between the call to the
10 union rep and their arrival?

11 A No because -- because a supervisor was --
12 Lieutenant Colberson was like the first on the scene.
13 The supervisor arrived and he separated us.

14 Q Okay. And in the period of time before
15 Colberson arrived -- well, were you able to see where
16 Officer Abdulahad was situated after the two of you
17 were separated?

18 A No.

19 Q When you were separated, where did you go
20 and where did Yasin go?

21 A They put me in an vehicle, and they put him
22 in another vehicle.

23 Q And in that period of time your phone was
24 still operational; correct, your cellphone?

25 A Yes.

1 Q And you used that phone in the period of
2 time in which you were separated; correct?

3 A Yes.

4 Q And in the period of time in which you were
5 separated and you used your cellphone, you contacted
6 Yasin, didn't you?

7 A No. Not at all. Huh-uh.

8 Q Are you sure?

9 A Yes.

10 Q How is it that you're sure?

11 A Because we have people standing over top of
12 us to make sure that we wouldn't talk to each other.

13 Q You contacted other persons separate from
14 Yasin?

15 A Yes. I was calling my ex-girlfriend, you
16 know -- I was trying to call my ex-girlfriend, you
17 know, to have at that time to come to the scene
18 because, you know, to have some support.

19 Q Can you recall speaking with anyone else
20 other than her in the period of time in which you were
21 the vehicle separated after Lieutenant Colberson had
22 separated the two of you?

23 A I called my sister. And, yeah, I called my
24 sister. I think I called my sister after that.

25 Q Okay. Please tell us the name of your

1 ex-girlfriend who you called?

2 A Tyson -- Tyson Bailey.

3 Q Bailey, B-A-I-L-E-Y (spelling)?

4 A Yes.

5 Q And what's your sister's name, please?

6 A Darlene Tracy.

7 Q Tracy, T-R-A-C-Y (spelling)?

8 A Yes.

9 Q And as far as you know are both of them
10 still in the Atlanta area?

11 A Yes. My sister is, but I don't know where
12 Tyson Bailey is.

13 Q I know I asked you about telephone
14 communication with Officer Abdulahad in that time
15 frame after you had been separated and while you were
16 situated inside of a patrol car. Tell me, please,
17 whether or not the two of you exchanged any text
18 messages at that time.

19 A No.

20 Q Were you able to see any of the personnel
21 whether they be from the fire department or EMS or
22 police investigators, any of the personnel who then
23 arrived at the scene after the shooting actually
24 entered the Malibu?

25 A No. They took us out of sight. I couldn't

1 see the vehicle. Once they put me in the vehicle, I
2 couldn't see -- once they put me in the truck, I
3 couldn't see the vehicle. I couldn't see what was
4 going on. They wouldn't allow me to look.

5 Q Okay. Can you recall whether in the period
6 of time then before -- after the shooting and before
7 the union rep arrived, is it the case that you did not
8 describe to any of the other officers who arrived at
9 the scene the circumstances of what precipitated
10 Mr. Phillips being shot?

11 A No. I didn't say anything to anyone.

12 Q And from your observation, and I realized
13 you ended being separated, but in your observation of
14 the interaction that Officer Abdulahad had with any of
15 the other officers who responded, do you recall either
16 seeing him or hearing him describe to other officers
17 as they arrived at the scene the circumstances that
18 led up to the shooting?

19 A I didn't see it. No.

20 Q Could you hear any of it?

21 A No.

22 MR. SPEARS: Jeff, could we go to the
23 exhibit list again?

24 MR. FILIPOVITS: What exhibit would you
25 like?

1 MR. SPEARS: Would you please pull up
2 Exhibit 6.

3 MR. FILIPOVITS: Just bear with me one
4 moment, please.

5 Q (By Mr. Spears) While we're waiting,
6 Officer, I'm just going to ask Jeff to pull up some
7 photos taken there at the scene just so I can confirm
8 for our purposes, you know, what it is, that sort of
9 thing.

10 Okay. Do you see now Exhibit 6?

11 A Yes.

12 Q Okay. And in looking at it, are you able to
13 recognize it as a photo of the red -- I think it was a
14 Chevy that the two of you were in? It may or may not
15 have been a Chevy. Do you recognize the vehicle in
16 the photo?

17 A No, I really don't. No.

18 Q Okay. Well, let's see. Could we try
19 Exhibit 4? Okay. Do you see a exhibit there --
20 Exhibit 4 there in front of you?

21 A I can see a little bit. I can't -- yes, I
22 see it now. Yes.

23 Q Okay. And I'm hoping you can tell us
24 whether you recognize that as a photo of a now
25 unopened door on the driver side of the vehicle that

1 you and Officer Abdulahad had shared when you rode up
2 to the scene?

3 A Yes.

4 Q Okay. And does this help you -- I know you
5 didn't take this photo. Does this help you recollect
6 whether or not that first exhibit, Exhibit 6 is a
7 photo of the vehicle as well without the doors open
8 obviously?

9 A I don't -- I don't even remember the vehicle
10 we were in to be honest. To be honest, I don't even
11 recognize the vehicle, no. Uh-huh.

12 Q Okay. Well then, let's go back to Exhibit
13 4. All right. I'll ask my question this way: For
14 purposes of my question, sir, if you could please
15 understand that with this photo having been provided
16 to us during the course of this litigation and
17 represented to us as a photo of the interior of the
18 vehicle that you and Officer Abdulahad were riding in
19 my next question then is this: Do you see that in the
20 back and situated behind the driver's seat there is
21 what appears to be a brown -- a bag of some kind. Do
22 you see that there?

23 A Yes.

24 Q All right. Now that evening when you and
25 Officer Abdulahad had arrived at the scene, did you

1 have any backpack, knapsack, anything along those
2 lines of your own?

3 A No. Not -- no.

4 Q Okay. And do you recall that Officer
5 Abdulahad had his own bag with him?

6 A Yes. Sometimes he'll carry a bag, something
7 similar to that. Like, a military bag because he's in
8 the army.

9 Q Okay. You say he is or was?

10 A I think he just retired.

11 Q All right. Am I correct in understanding
12 that from your testimony that as you recall it, Yasin
13 had a bag with him --

14 A Yes.

15 Q -- that night when you arrived at the site
16 of the shooting?

17 A Yes.

18 Q Okay. And does the bag that's depicted in
19 this exhibit, Exhibit 4, does that correspond to your
20 recollection of what Yasin's bag looked like?

21 A Yes.

22 Q Okay. Can we go to Exhibit 8, please.

23 All right. This photo obviously taken
24 from the passenger side of that vehicle. In looking
25 at it now are you able to recognize it as a photo of

1 the car that you arrived in that night?

2 A It's possible. Like I said, I don't
3 remember what vehicle we owned. We used to change
4 vehicles all the time.

5 Q Okay. Do you see the brown bag there in the
6 interior of the vehicle as you see it in the photo?

7 A Yes.

8 Q And does that again correspond to your
9 recollection of what Yasin Abdulahad's bag looked
10 like, what you see there in that photo?

11 A Yes.

12 Q Can we go to Exhibit 7, please.

13 All right. Do you see Exhibit 7?

14 A Yes.

15 Q All right. And this again is a part of the
16 same set of photographs that we've been provided that
17 were taken by the GBI folks who came out to the scene.
18 This bag, as we look at it in its current position in
19 the photo, does that still appear to be in your
20 recollection the bag that Officer Abdulahad would
21 carry with him or have with him?

22 A Yes.

23 Q Do you see the clips?

24 A I see the magazine, yes.

25 Q All right. And that's a magazine that would

1 be of the type that would be used in a Glock; correct?

2 A Yes.

3 Q And do you recall that Officer Abdulahad
4 carried -- do we have an echo?

5 A Hello. I hear you.

6 Q Okay. In addition to the magazine, when you
7 say magazine that's a --

8 A Correct term for a clip.

9 Q Please say again. Oh, term for a clip.
10 Okay.

11 A Right.

12 Q So the magazine that you see there that's
13 the type that goes into a Glock; correct?

14 A Yes, correct.

15 Q Were you aware of the fact that that evening
16 that Yasin Abdulahad had another weapon inside of that
17 bag?

18 A No, I wasn't aware.

19 Q Are you aware of the fact that Officer
20 Abdulahad had regularly carried one or more handguns
21 in that bag while the two of you were on duty?

22 A No.

23 Q Is there -- would it surprise you to learn
24 that Officer Abdulahad indeed had another Glock in
25 that bag that night?

1 A You said would it surprise me?

2 Q That's my question.

3 A No.

4 Q Because you knew from time to time he would
5 carry additional weapons with him while he was on duty
6 in addition to the one he had in his holster; correct?

7 A No. No, I didn't know. No.

8 Q So when you say it wouldn't surprise you to
9 learn that he did indeed have an extra weapon with
10 him, at least one on that evening, why do you say it
11 wouldn't surprise you?

12 A Because he was -- he was tactical. You
13 know, he -- he -- that was his personality. He liked
14 guns and, you know, most of the guys he just -- he was
15 in the military. And most of the guys that recently
16 got out of the military are still, like, you know real
17 tactical. They carry multiple guns, you know. And,
18 you know, from his -- you know, he liked guns, you
19 know. So it wasn't no surprise to me. It wouldn't
20 be.

21 Q Okay. And did he ever show you any of the
22 additional guns that he had while the two of I were on
23 duty working together?

24 A No.

25 Q Did the two of you go out to shooting range

1 to take the proficiency tests in your capacity to
2 properly operate your weapons?

3 A We never went together. We went separately.

4 Q Okay. Okay. Am I correct in understanding
5 then that whenever -- if this is based on your
6 experience, whenever officer Abdulahad would be
7 working with you on a shift, if he had any extra
8 weaponry with him that isn't something that he would
9 ordinarily tell you about?

10 A No. We wouldn't -- no. I didn't find them
11 really interesting. You know, I'm not a gun person
12 like -- I don't like guns like that. That may be a
13 conversation that he may share with somebody that, you
14 know, are into those type of things. I'm not really
15 into guns like that, so that wouldn't be no interest
16 to me.

17 Q Okay. So no surprise to you that he had
18 extra weapons with him that evening?

19 A Right. Correct.

20 Q Earlier you said something about Abdulahad's
21 initial reaction after you embraced him. You said
22 something to the effect that he was crying. How
23 long -- physically what was that crying about? Was he
24 crying out to you or was he crying like in tears?
25 What was the physical manifestation on his part that

1 had you characterize him as having been crying?

2 A He was crying as if he was scared, or like
3 he was overwhelmed and he was just scared.

4 Q Okay. So not crying in a sense of deep loss
5 with tears?

6 A Right. He had tears coming -- he had tears
7 coming from his eyes. I think he kind of, you know --
8 he was put in a situation where he made a decision.
9 He probably changed his mind afterwards. I don't
10 know, but, you know, it wasn't a comfortable situation
11 for him. You know, he was just real emotional, you
12 know, and crying.

13 Q Well, again for right now, and I know it's
14 fair to say you don't know what was going on in his
15 head per se. I'm just trying to get at what your
16 observations were of his physical actions in what you
17 described as crying. As I understand it then you've
18 characterized his crying as something that you took to
19 mean scared, but you don't know one way or another
20 whether he was conveying being scared by him crying,
21 do you?

22 A No.

23 Q He didn't say to you because you have not
24 told us up to this point and I've asked you several
25 times. He didn't say to you: I was scared, did he?

1 A No.

2 Q Okay. So when you say something to the
3 effect like he was scared that was your
4 characterization of what you saw in his physical
5 activity; correct?

6 A Yes.

7 Q That isn't what he actually told you, was
8 it?

9 A No.

10 Q Okay. So did he ever express any second
11 thoughts about what he had done in terms of either
12 jumping into the car, grabbing ahold of Phillips, or
13 shooting Phillips? Did he ever say anything along
14 those lines?

15 A No.

16 MS. MILLER: Objection, but you can answer.

17 Q Can you recall any other physical action
18 that Abdulahad took at that time that characterizes
19 him crying that you've not yet told us?

20 A No.

21 Q In the period of time between the last --
22 between our start of this deposition and today, what
23 contact have you had with Officer Abdulahad?

24 A None really. I spoke with them yesterday in
25 regards to a trip. He's in Jamaica right now. That

1 was it. I just asked him if he had some money for his
2 trip. That's it. How he's going to pay for a trip.

3 Q When you say he's in Jamaica, was he asking
4 you for money?

5 A No. No. I have a birthday coming up in
6 June and there was a group of us supposed to go to
7 Vegas. And, you know, I just -- you know, I just -- I
8 told someone to ask him was he going because he was in
9 Jamaica and, you know. And he never -- he texted me
10 back and say I'm going. How much do I need? And that
11 was it.

12 Q Okay. And when you talked with him, did you
13 talk about that as well?

14 A No.

15 Q Did you talk about the trip when you talked
16 to him by the phone?

17 A No.

18 Q Did you talk about your deposition?

19 A No.

20 Q He is aware, he is not, that these
21 depositions of you are taking place?

22 A No. Not -- no, huh-uh.

23 Q Has the fact that you are giving your
24 deposition ever come up in any text or phone
25 communication that you've had with Officer Abdulahad

1 in the last two weeks?

2 A No.

3 Q What I would like to do now is go to an
4 earlier exhibit in our first go-around on your
5 deposition where we had that video from the Annex that
6 we looked at. I'm going to -- what I'm going to be
7 doing now is to have that -- have a portion of that
8 shown to you, sir, and then I'll ask you some
9 questions based on that.

10 So if we could go to that video, and
11 then I'll give you a time to try to get to, Jeff, and
12 I'll show it to the witness.

13 Officer, are you able to see the --
14 what I just refer to as the Annex video?

15 A Yes. Yes.

16 Q Okay. Could you please bring the video up
17 to the point where the time that it appears in the
18 upper left corner begins at time 4608 seconds.

19 Okay. We're at 06 -- we're at 4606.
20 Do you see that there, sir?

21 A Yes.

22 Q Now, the portion that I'll ask to be played
23 for us would be that portion that extends from 4608 to
24 4750. Are you with me so far?

25 A Yes.

1 Q Okay. And are you able to see -- at least
2 on your screen you're able to see what's going on?

3 **A** **Yes.**

4 Q So if we could let's start the video and
5 play it up to 4750.

6 (Playing video.)

7 Q Could we pause for just a moment. I want to
8 get some clarification. We've paused at 4654. About
9 ten seconds ago it appeared that one of the figures
10 adjacent to the Malibu had some paperwork in their
11 hand. Did you notice that, sir?

12 A Yes.

13 Q And identify for us please whether that
14 person with the paperwork in their hand as we saw it
15 in the video, was that you or was that Yasin?

16 A That was Yasin.

17 Q Okay. Could we please start up again at
18 4654.

19 Okay. Could we pause for a moment?
20 We're now at 4731. And, Officer, do you see there
21 appears to be a bluish type light?

22 A Yes.

23 Q A flashlight adjacent to the car -- to the
24 Malibu. Do you see that?

25 A Yes.

1 Q And does it appear to you that that light is
2 being held by someone other than Officer Abdulahad?

3 A Yes.

4 Q And would the officer holding the flashlight
5 be yourself?

6 A Yes.

7 Q All right. Please continue. Okay. Thank
8 you. We can stop.

9 Now, my questions to you now, sir,
10 are -- and I realize I've asked you in I hope
11 sufficient detail your recollection of what occurred
12 that evening that I'm showing you this video really to
13 just ask whether now having seen it with us -- all of
14 us at the same time, did you see anything that
15 appeared in the video that has you now want to change
16 any of your description of the events alongside of the
17 car?

18 A No.

19 Q You know, in other words, we went into
20 detail and you told --

21 A Right.

22 Q And I'm not trying to retread. But I wanted
23 to give you an opportunity to both view the video and
24 let us know anything that you need to change from what
25 you told us before?

1 A No. I told you what I remember.

2 Q And is there anything now, having seen this
3 video, anything that you told us earlier that now you
4 think it would be appropriate for you to either
5 correct or clarify?

6 A I think about the flashlight. I didn't
7 recall whether I had a flashlight on me or not. Or
8 whether it was Abdulahad's flashlight. I didn't
9 remember whose flashlight it was or whether I had a
10 flashlight or whether I had an actual flashlight. I
11 don't remember that per se. I don't even remember
12 having a flashlight, but I may have. I mean looking
13 at the video I had that wasn't a detail that, you
14 know, I paid, you know, much focus to or even
15 remember.

16 Q Okay. Understood. Anything else in
17 addition to the flashlight?

18 A No. Everything pretty much -- no. The
19 vehicle that we were in.

20 Q Yes. Yeah, you see the red vehicle.

21 A Yeah.

22 Q Right. Okay. All right. Can you think --
23 I'm going to pause for just a minute and then if you
24 will allow us I want to check in with my co-counsel.
25 So let's take about a five minute -- well, about a

1 | five minute break and then come back. All right?

A Yes. I'm going to run to the bathroom.

3 | Q Thank you.

6 Q (By Mr. Spears) Okay. Officer, you have
7 described your observation -- you looked inside the
8 interior of the Malibu and you saw Mr. Phillips seated
9 in the driver seat and you said that you saw a gun.
10 Let me ask you, please, to tell us whether you looked
11 into the interior of the Malibu more than once that
12 night after --

13 A No. One time.

14 Q All right. And, first of all, can you tell
15 us what you recall seeing in the interior of the
16 Malibu, if anything, in addition to Mr. Phillips and
17 the gun?

18 A I saw Mr. Phillips shot to the head and I
19 saw a gun on the driver -- I mean on the passenger
20 side on the floorboard.

21 Q Okay. Just for the starters, can you recall
22 anything else that you saw in addition to those two
23 things that you just said?

24 A No.

25 O Okay. And as to the gun itself, there was

1 no part of Mr. Phillips' body that was touching the
2 gun; correct?

3 A Correct.

4 Q And in what you saw of the positioning of
5 his arms, neither of his arms was outstretched in the
6 direction of the gun, were they?

7 A No. No.

8 Q The gun that you saw you couldn't tell the
9 make or model of it, could you?

10 A No.

11 Q You could -- well, what type of gun did you
12 see, are you able to recall that?

13 A It was a pistol. It was a black pistol.

14 Q Okay.

15 A But I couldn't tell what brand it was or
16 whether it was a Glock or whether it was a MP. I
17 couldn't tell you. I just knew it was a black pistol.

18 Q All right. And it was on the floor of the
19 passenger side; correct?

20 A Yes.

21 Q And it was -- you never -- you never
22 approached or touched that gun, did you?

23 A No. I didn't touch anything.

24 Q And when you say you didn't touch anything,
25 I take it to mean you didn't touch the car. You

1 didn't touch any physical item within the car at all
2 after Yasin got out?

3 A Correct.

4 Q Okay. Now, the -- at that point in time as
5 you looked to the interior of the car, you did not
6 have your flashlight; correct?

7 A I don't -- I think I went back and got it,
8 but I don't -- I think I ran back and got my
9 flashlight after that. I think I ran back and got my
10 flashlight. I don't remember. I don't remember. I
11 just --

12 Q Really what I'm trying to understand is what
13 was your capacity to see what was on the floor of the
14 passenger side. If you didn't have the flashlight,
15 then the only light you would have -- would have been
16 the interior dome light; is that right?

17 A It's possible.

18 Q Okay. And how far away from that gun would
19 you say you were when you observed it?

20 A Just -- I can't give you no approximate
21 feet. It was enough -- I just came close enough to
22 see if it was a gun and to see if the guy was alive.
23 To see -- if I needed to try to, you know, save him or
24 what -- I can't recall how close I was or nothing.

25 Q In the area of the floor of the front

1 passenger side of the car, where in that area was the
2 gun located?

3 A On the floorboard closer to -- closer to the
4 door. Like, closer to the door. And it looked like
5 it was slightly under the seat a little bit. Looked
6 like it was slightly under the seat a little, but not
7 fully. But you could still see the gun there.

8 Q And when you referred to the door, you're
9 referring to the front passenger side door; correct?

10 A Yes, I'm sorry. The front passenger door.

11 Q The door furthest away from -- from
12 Mr. Phillips?

13 A Yeah.

14 Q Based on what you've told me, am I correct
15 in understanding then, that there was not a point in
16 time in which either you or Yasin sought to check
17 Mr. Phillips' pulse?

18 A No, I didn't. No.

19 Q You have any understanding one way or
20 another whether or not Officer Abdulahad checked his
21 pulse?

22 A No.

23 Q In the communications between either you or
24 Officer Abdulahad and dispatch after the shooting,
25 which of the two of you or who of the two of you, if

1 either one of you contacted them and said they needed
2 to dispatch a medical unit?

3 A I think it was me.

4 Q Do you recall what you said in that regard?

5 A No. I think I said -- I gave the location.
6 I told them -- I said it was a shooting. And I said:
7 Can you start a paramedic for a black male, and can
8 you start a supervisor.

9 Q Do you recall anything else that you
10 described to dispatch about the situation you had
11 there?

12 A No. No. After that I think -- I think
13 after that Abdulahad took over the transactions after
14 that.

15 Q And by transactions you mean the
16 communications?

17 A The communications, yes.

18 Q Okay. Now, as we're drawing now to the end
19 of your deposition, I want to ask you this: Can you
20 think of any question that I asked you during the
21 course of your deposition which you answered, but you
22 feel that it's appropriate for you to now either
23 clarify or change?

24 A No. I gave you the best of my memory.

25 Q Can you think of any question that I asked

1 you that sitting here now you realized you didn't
2 really understand what I asked, even though you went
3 ahead and answered it?

4 A Yes. About the muzzle flash, that was it.
5 I get it now. You were asking me about the muzzle
6 flash, can you see it. Yes, you can see the muzzle
7 flash at nighttime and daytime, but I had
8 misunderstood the question. I thought about it later.

9 Q All right. Well, thanks. Thank you for
10 that clarification. Now, as you now think about this
11 notion of a muzzle flash -- well, let me ask you
12 yourself, just in your own words, describe what you
13 understand to be a muzzle flash associated with the
14 discharge of a pistol; what is it?

15 A You know, from the combustion of the bullet,
16 you know, it causes a small explosion that comes out
17 of the end -- at the end of the muzzle, you know. And
18 that's what -- that's what -- how I interpret it.

19 Q Okay. And so with respect to Officer
20 Abdulahad's firing of his pistol, it would be your
21 expectation, would it not, that there would have been
22 a muzzle flash?

23 A Yes. Unless -- unless -- from my
24 expectations if you're shooting from a distance
25 probably -- you know, if there was some space in

1 between you would probably see a muzzle. But if the
2 gun is flush you wouldn't see it.

3 Q Right. If it's a contact discharge of the
4 weapon, you wouldn't expect to see a muzzle flash?

5 A Correct.

6 Q And when we say contact discharge, what
7 we're speaking of then is the discharge of the weapon
8 with the -- with the front of the barrel in contact
9 with the person being shot?

10 A Correct.

11 Q Okay. Fair to say then that at least --
12 given that you've said you did not see a muzzle flash
13 I assume that's still correct; yes?

14 A Yes, that's correct.

15 Q All right. Given you then saw that
16 Mr. Phillips was dead in the driver seat with a
17 gunshot wound to his head, in your opinion is that
18 consistent with the use of Abdulahad's gun at a time
19 when he had the barrel directly against Mr. Phillips'
20 head?

21 A I didn't see him have it directly to his
22 head, but I didn't see a flash. And, you know, from
23 not seeing a flash, you know, it's possible. But I
24 just didn't see it.

25 Q No, I understand you didn't see it. I'm not

1 trying to retread that. But the fact that you did not
2 see a muzzle flash is consistent with it being a
3 contact wound; correct?

4 **A** **Yes.**

5 Q Okay. Is there anything else that you now
6 think of that you think that we need to hear in order
7 to understand what you recall about what happened?

8 | A No, sir.

9 | Q Okay.

10 MR. SPEARS: Those are all my questions.

11 | Staci.

DIRECT EXAMINATION

13 BY MS. MILLER:

14 Q Yes. Detective Robeson, I do have a few
15 questions for you. I want to first thank you for your
16 cooperation and time in this matter. Hopefully these
17 can be quite a few.

21 A Tunnel vision meaning when you -- like you
22 in the moment of some type of trauma or some
23 excitement you just get locked on a specific object or
24 person or you just get locked in on one specific thing
25 and you fail to see what's going on in here. What's

1 going on around you. Kind of like when you're in a
2 fight. When someone hit you -- someone was to come
3 and say, did you see that person standing by in the
4 fight. You might be concentrating just on the subject
5 that's in front of you, the threat. Not what's going
6 on around you. So you wouldn't be able to see -- it
7 is probably hard to determine what you hear, what you
8 smell. You just get locked on a threat or what's in
9 front of you. That's tunnel vision.

10 Q Thank you. And in January of 2017 was it
11 illegal to smoke marijuana in the state of Georgia?

12 A Yes.

13 MR. SPEARS: Objection; calls for a legal
14 opinion.

15 Q (By Ms. Miller) Okay. On the date of this
16 particular incident, you mentioned that after
17 Mr. Phillips exited the car that you were attempting
18 to pull out on your radio. What prevented you from
19 pulling out on the radio?

20 MR. SPEARS: Objection. Form. Leading. He
21 didn't tell us earlier he had any problem in
22 pulling out his radio.

23 Q Yes. And I will rephrase the question. So
24 after Mr. Phillips exited the vehicle, did you attempt
25 to pull out? And by pull out, I mean communicate with

1 dispatch on your radio?

2 A Yes.

3 Q And were you prevented from making that pull
4 out?

5 A Yes. Initially. Yes.

6 Q And what prevented you from making that pull
7 out?

8 A It wasn't on the correct -- it kept -- it
9 kept beeping like whooo, making a song like
10 (onomatopoeia). That mean the station was changed.

11 Q Thank you. And did any action of
12 Mr. Phillips prevent you from making pull out?

13 MR. SPEARS: Objection to form.

14 A When you say --

15 Q Do you need me to repeat or rephrase the
16 question?

17 A What action -- yes. Can you repeat it?

18 Q Yes. Did any action of Mr. Phillips prevent
19 you from making a pull out on the radio?

20 A Yes.

21 Q And what was that action?

22 A When he became physical with me, and then
23 he -- when he -- when he pushed me to try to get past
24 me and he broke a loose from Abdullahad and jumped in
25 the car.

1 Q Okay. Thank you. And my final question:
2 What was the purpose of the calls that you made with
3 Investigator Abdulahad after this incident?

4 A You know, just we were friends and just
5 checking to see if we was okay.

6 Q Thank you. Those are all my questions.

7 MR. SPEARS: Nothing further. Thank you
8 everybody.

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1 DISCLOSURE

2 STATE OF GEORGIA DEPOSITION OF EL MALIK ROBESON-EL

3 COUNTY OF PAULDING Date: March 25, 2021

4 Pursuant to Article 10.B of the Rules and
5 Regulations of the Board of Court Reporting of the
6 Judicial Council of Georgia, I make the following
disclosure:

7 I am a Georgia Certified Court Reporter. I
8 am here as a representative of American Court
Reporting Company, Inc.

9 I am not disqualified for a relationship of
interest under provisions of O.C.G.A. 9-11-28(c).

10 American Court Reporting Company, Inc., was
11 contacted by the offices of Brian Spears, Esquire to
provide court reporting services for this deposition.

12 American Court Reporting Company, Inc. will
13 not be taking this deposition under any contract that
is prohibited by O.C.G.A. 15-14-37(a) and (b).

14 American Court Reporting Company, Inc., has
15 no exclusive contract to provide reporting services
with any party to the case, any counsel in the case,
or any reporter or reporting agency from whom a
16 referral might have been made to cover this
deposition.

17 American Court Reporting Company, Inc., will
18 charge its usual and customary rates to all parties in
the case, and a financial discount will not be given
19 to any party to this litigation.

20 This the 25th day of March 2021.

21

22

23

24

25

CATHY M. COX, B-441

1 C E R T I F I C A T E

2 STATE OF GEORGIA)

3 COUNTY OF PAULDING)

4 I hereby certify that the foregoing
5 transcript was taken down, as stated in the caption,
6 and the proceedings were reduced to typewriting under
7 my direction and control.

8 I further certify that the transcript is a
9 true and correct record of the evidence given at the
10 said proceedings.

11 I further certify that I am neither a
12 relative or employee or attorney or counsel to any of
13 the parties, nor financially or otherwise interested
14 in this matter.

15 This the 12th day of April 2021.

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Cathy M. Cox

23 CATHY M. COX, CCR, RPR

24 Certificate No. B-441

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